

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DARIUS RUSH,

Petitioner,

Case Number 2:20-CV-11540  
HONORABLE DENISE PAGE HOOD

v.

O'BELL T. WINN,

Respondent.

/

**OPINION AND ORDER GRANTING THE AMENDED MOTION TO AMEND THE  
PETITION FOR A WRIT OF HABEAS CORPUS AND GRANTING  
RESPONDENT TIME TO FILE A SUPPLEMENTAL ANSWER TO THE  
AMENDED PETITION FOR A WRIT OF HABEAS CORPUS (ECF Nos. 49, 50)**

Petitioner, Darius Rush, filed a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254. Petitioner challenges his conviction for first-degree home invasion and conspiracy to commit first-degree home invasion. Carole M. Stanyar was appointed to represent petitioner. The Court conducted an evidentiary hearing in this matter and the parties have filed post-hearing briefs.

Petitioner has now filed a motion to amend the petition and an amended motion to amend the petition for a writ of habeas corpus. For the reasons that follow, the amended motion to amend the petition is GRANTED. The Court grants respondent sixty days from the date of the order to file a supplemental answer to the petition if he so chooses.

Petitioner in his original petition alleged that counsel was ineffective for failing to challenge the voluntariness of his confession. In his amended petition,

petitioner seeks to raise a claim that counsel was ineffective for failing to move to suppress petitioner's confession on the ground that the police continued to interrogate him after he invoked his right to counsel.

The Court grants the motion to amend the habeas petition; the amended habeas petition supplements one of the claims raised in the original petition. See e.g. *Braden v. United States*, 817 F.3d 926, 930 (6th Cir. 2016).

The Court grants respondent sixty (60) days to answer and brief the issues raised by the amended petition to ensure that respondent has sufficient time to fully address the amended petition. See *Stewart v. Angelone*, 186 F.R.D. 342, 344 (E.D. Va. 1999); Rules Governing § 2254 Cases, Rule 4.

It is **ORDERED** that:

- (1) The amended motion to amend the petition (ECF No. 50) is **GRANTED**; the motion to amend the petition (ECF No. 49) is **MOOT**.
- (2) Respondent has **sixty (60) days** from the date of this order to file a supplemental answer.

s/Denise Page Hood

Denise Page Hood  
United States District Court

Dated: September 26, 2022